

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

AMERICAN CIVIL LIBERTIES UNION, *et al.*,)
Plaintiffs,)) Civ. A. No. 1:05-CV-1004 (ESH)
v.)
FEDERAL BUREAU OF INVESTIGATION,)
UNITED STATES DEPARTMENT OF JUSTICE,)
Defendants.)

)

Exhibit M to Coppolino Declaration

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DISTRICT OF ARIZONA	
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

CHARLES REED,) No. CIV 97-2150-PHX-SMM
Plaintiff,) MEMORANDUM DECISION AND ORDER
vs.)
U.S. DEPARTMENT OF JUSTICE,)
Defendant)

On October 27, 1997, Plaintiff filed an Amended Complaint alleging that Defendant violated the Freedom of Information Act (FOIA) by failing to produce requested documents related to the Federal Bureau of Investigation's investigation of an alleged theft of Plaintiff's property by the Federal Highway Administration, the State of Arizona, and Maricopa County.

On April 4, 1998, Defendant filed a Motion to Stay/Motion to Dismiss. In the Motion Defendant asserts that the first request for information under FOIA by Plaintiff was received on December 10, 1996. (Davis Aff. at ¶ 4.) Defendant asserts because of the voluminous requests for documents produced by the Federal Bureau of Investigation, Plaintiff's FOIA request is in "backlog" and will be produced in the order that it was received. (Davis Aff. at ¶ 33.)

FOIA authorizes the Court to retain jurisdiction on an action and allow the agency additional time to complete its review of the records if the agency can demonstrate that exceptional circumstances exist and that the agency is exercising due diligence. 5 U.S.C. § 552(a)(6)(A); Open America v. Watergate Special Prosecution Force, 697 F.2d 605 (D.C. Cir. 1976). Exceptional circumstances have

(3)

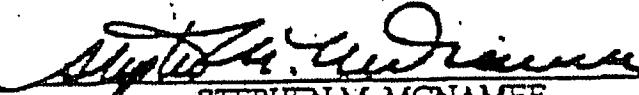
1 been defined as when an agency has been deluged with a volume of requests for information that is
2 vastly in excess of that anticipated by Congress and the existing resources are inadequate to deal with
3 the volume of such requests. Open America, 547 F.2d at 610.

4 Here, Defendant has made a showing of exceptional circumstances and due diligence. (Davis
5 Aff.) Accordingly, the Court will retain jurisdiction over this action and stay further proceedings for
6 a period of approximately 18 months to allow Defendant to produce the documents requested in
7 Plaintiff's FOIA request.

8 IT IS THEREFORE ORDERED that Defendant's Motion to Stay/Motion to Dismiss (Doc.
9 No. 25) is granted. The action is stayed until May 1, 2000 to allow Defendant to produce the
10 documents requested. Defendant or Plaintiff shall notify the Court if the documents requested are
11 produced before that date.

12 IT IS FURTHER ORDERED that Plaintiff's Motion for Summary Judgment, Motion to
13 Accelerate Motion for Summary Judgment, and Motion for Directed Verdict (Docs No. 27, 28, & 29)
14 are denied without prejudice.

15 DATED this 7 day of November, 1998.

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18 STEPHEN M. MCNAMEE
19 UNITED STATES DISTRICT JUDGE
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